

REMARKS:

Applicant has carefully considered the Office Action mailed October 1, 2004.

Reconsideration of the application in view of this amendment in response thereto is respectfully requested.

The disclosure is objected to because certain prior art information is missing. The specification has been amended to provide the missing prior art information.

Claim 1 is objected to because of a certain informality. Claim 1 has been amended to correct that informality.

Claims 1-5 are rejected under 35 U.S.C. § 102(e) as being anticipated by Whitehurst et al (U.S. Pat. No. 6,788,975). Claims 2 and 5 have been canceled without prejudice or disclaimer. The set of parameters disclosed by the Whitehurst et al reference utilized in the context of stimulation ('stimulation parameters') are limited to a subset of those parameters that are adjustable by conventional stimulators and that are clinically available and well known to one skilled in the art. These Whitehurst et al parameters are: amplitude (also referred to by Whitehurst as "strength"), frequency, duration, and choice of intermittent or continuous delivery. However, the Whitehurst et al reference does not teach sequentially changing and applying waveforms from a plurality of waveforms in a waveform bank in order to find a waveform wherein the subject's response to a currently applied waveform is determined to be acceptable within defined limits. Varying waveforms provides another previously unrecognized, novel means for controlling brain state changes because it takes into account the inherent

differences in neuronal sensitivity to the properties or characteristics of inputs which may be coded as waveforms.

On the other hand, the system of the present invention teaches and claims sequentially changing and applying waveforms from a plurality of waveforms in a waveform bank in order to iteratively generate or provide an optimal waveform or combined waveform components wherein the subject's response to a currently applied waveform is determined to be acceptable within defined limits. Claims 1 and 4 have been amended to more clearly distinguish the present invention as taught and claimed from the Whitehurst et al reference. New claim 6 has been added to cover subject matter not previously claimed.

Summarizing, amended claim 1, claim 3 dependent from claim 1, amended claim 4, and new claim 6 should be in condition for allowance.

The Examiner is invited to contact the undersigned at the below-listed telephone number if it is felt that the prosecution of this application may be expedited thereby.

Respectfully submitted,

IVAN OSORIO et al

A handwritten signature in black ink, reading "Donald R. Schoonover". The signature is written in a cursive, flowing style with a large initial "D".

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